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OFFICE OF PETITIONS

In re Application of
Alex CHAN et al
Application No. 10/761,343
Filed: January 22, 2004
Attorney Docket No. ALC 3113

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 5, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This application became abandoned as a result of petitioner's failure to take appropriate action in a timely manner after the decision of September 18, 2009 by the Board of Patent Appeals and Interferences (Board). Therefore, the proceedings as to the rejected claims were terminated. *See* 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 19, 2009. *See* MPEP 1214.06.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) item (1).

The amendment submitted November 5, 2009, along with a petition to revive under 37 CFR 1.137(b) is not a proper response to a Decision by Board of Patent Appeals and Interferences, where no claims were allowed, and no new rejection given by the Board. A proper response to the decision would require the filing of a continuing application, a request for reconsideration or the filing of a Request for Continued Examination (RCE).

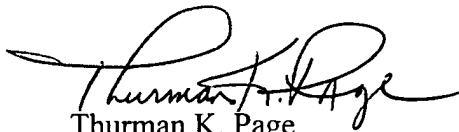
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
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The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-0602.


Thurman K. Page
Petitions Examiner
Office of Petitions